

REMARKS

Claims 1 – 11 remain in the application. Claim 12 has been withdrawn from further consideration. Only Claim 1 is in independent form.

In response to the restriction requirement, the Applicant hereby affirms its prior election to prosecute the invention of Claims 1 – 11.

Claims 1 – 11 stand rejected under 35 USC 103(a) as being unpatentable over Graham '906 in view of Urbach '208 and further in view of Herbenar '557.

Graham '906 discloses a compression style ball joint assembly having only one keeper-style "upper" bearing 13 holding the ball portion 12a of the stud in the housing 11. This upper bearing 13 is not split, and does not simultaneously engage the ball portion 12a of the ball stud 12 and the inner sidewall 11e of the housing 11. In fact, a clearance space is discernable between the upper bearing 13 and the sidewall 11e of the housing 11 in Figure 2. Accordingly, Graham '906 fails to disclose numerous claimed features recited in Claim 1 of the subject application.

Urbach '208 discloses a compression style ball joint assembly including a one-piece plastic bearing 22 whose "torque" can be adjusted through a set screw 64. Upon diligent consideration, the Applicant is unable to find a suggestion that the one-piece plastic bearing 22 includes any type of split segment linking its inner and outer surfaces, as required in Claim 1 of the subject application.

Herbenar '557 discloses a tension-style ball joint assembly including upper 21 and lower 28 bearings. The lower bearing 28 is split. The cover plate 37 is not "disposed about" the moveable member as recited in Claim 1 of the subject application. Rather, because this is a tension-style ball joint assembly, the cover plate 37 caps the open bottom end of the housing 11.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge

generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be recited from the prior art and not based on the applicant's disclosure.

It is respectfully submitted that the Office Action has not met the Office's initial burden to establish a *prima facie* case of obviousness because it has not been explained from where the suggestion or motivation to combine the various teachings can be found. Furthermore, it is respectfully submitted that such a motivation or suggestion will not be found in these prior art references because, in fact, no such motivation or suggestion exists. Specifically, the primary reference of Graham '906 does not, anywhere within its four corners, indicate a desire to include both upper and lower bearings as taught by the subject invention. Graham '906 further fails to disclose that its un-split upper bearing 13 should be reconfigured with a split segment and pressed so as to simultaneously engage the ball portion 12a and the inner sidewall 11e of its housing.

Similarly, Urbach '208 is relied upon for teaching a lower metal bearing 22 disposed within the central bore. It is respectfully submitted that this is a misreading of Urbach '208, in that its one-piece bearing 22 is, in fact, made from an injection molded polymeric material such as DELRIN™ (see Col. 1, lines 61-62). Accordingly, Urbach '208 cannot be relied upon to provide a suggestion or motivation as indicated in the Office Action, because its teachings are contrary to those set forth in Claim 1 of the subject application.

Likewise, Herbenar '557 discloses a tension mode style ball joint. There is no suggestion, motivation or teaching whatsoever to combine the features in Herbenar's '557 "tension-style" ball joint assembly into the Graham '906 "compression" construction. These prior art references

represent markedly different designs in ball joint structures, and the respective authors of these designs cannot be shown to motivate the particular combination of teachings as required by Claim 1 of the subject application.

In addition to the lack of suggestion or motivation in any of the prior art references to combine their teachings in a manner suggested by the Office Action, there can be found no reasonable expectation of success through examination of the identified prior art.

Accordingly, the Office Action has failed to establish a *prima facie* case of obviousness because at least two of the three basic criteria have not been demonstrated in an objectively discernable fashion. It is respectfully submitted that a *prima facie* case of obviousness cannot be established, because the references simply do not teach, suggest or motivate, nor do they provide a reasonable expectation of success, with respect to combining the features as argued in the Office Action. The subject application is therefore believed to be presented now in condition for allowance.

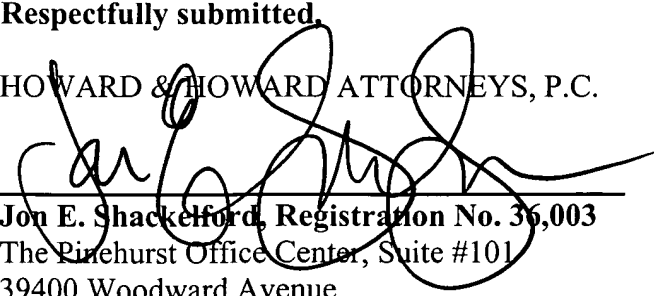
Reconsideration of this application as amended is respectfully requested. Further and favorable action is requested.

The Patent Office is authorized to charge or refund any fee deficiency or excess to Deposit Account No. 08-2789.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

12-12-05
Date


Jon E. Shackelford, Registration No. 36,003
The Pinehurst Office Center, Suite #101
39400 Woodward Avenue
Bloomfield Hills, Michigan 48304-5151
(248) 723-0370